

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARTIN PHILLIP ROSE,

Defendant.

CR 18-12-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant Martin Phillip Rose (Rose) has been accused of violating the conditions of his supervised release. Rose admitted all of the alleged violations. Rose's supervised release should be revoked. Rose should receive a term of custody of time-served, followed by 22 months of supervised release. Rose should reside at a Residential Reentry Center until August 5, 2019.

II. Status

Rose pleaded guilty to Theft of Counterfeiting Obligations or Securities of the United States on July 19, 2018. (Doc. 27). The Court sentenced Rose to 14 months of custody, followed by 3 years of supervised release. (Doc. 46). Rose's current term of supervised release began on March 8, 2019. (Doc. 50).

Petition

The United States Probation Office filed a Petition requesting that the Court revoke Rose's supervised release on March 25, 2019. (Doc. 50). The Petition alleged that Rose had violated the conditions of his supervised release: 1) by using methamphetamine; and 2) by failing to abide by the rules of the Great Falls Pre-Release Center.

Initial appearance

Rose appeared before the undersigned for his initial appearance on May 7, 2019. Rose was represented by counsel. Rose stated that he had read the petition and that he understood the allegations. Rose waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a revocation hearing on May 7, 2019. Rose admitted that he had violated the conditions of his supervised release by failing to abide by the rules of the Great Falls Pre-Release Center. Rose did not admit or deny alleged violation 1. The government did not attempt to prove alleged violation 1. The violation admitted by Rose is serious and warrants revocation of Rose's supervised release.

Rose's violation is a Grade C violation. Rose's criminal history category is VI. Rose's underlying offense is a Class C felony. Rose could be incarcerated for up to 24 months. He could be ordered to remain on supervised release for up to 36 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 8 to 14 months.

III. Analysis

Rose's supervised release should be revoked. Rose should receive a term of custody of time-served, followed by 22 months of supervised release. Rose should be subject to the same conditions of supervised release previously imposed, with one exception. Special Condition 1 should be amended to reflect that Rose will reside in a Residential Reentry Center until August 5, 2019. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Rose that the above sentence would be recommended to Judge Morris. The Court also informed Rose of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Rose that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Rose stated that he wished to waive his right to

object to these Findings and Recommendations, and that he wished to waive his right to allocute before a United States district court judge.

The Court **FINDS:**

That Martin Phillip Rose violated the conditions of his supervised release by failing to abide by the rules of the Great Falls Pre-Release Center.

The Court **RECOMMENDS:**

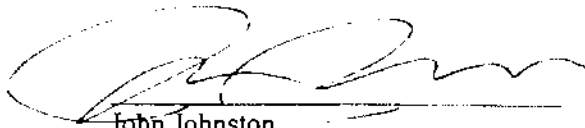
That the District Court revoke Rose's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of time-served, with 22 months of supervised release to follow. Rose should reside at a Residential Reentry Center until August 5, 2019.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO
OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a

district court judge.

DATED this 8th day of May, 2019.



John Johnston
United States Magistrate Judge